

PATENT

Atty Docket No.: 200312032-1

App. Ser. No.: 10/697,692

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

Claims 1-50 are pending in the present application, of which, Claims 1, 25, 36, and 43 are independent.

Improper Restriction Requirement

Although an election to one of the alleged inventions and species has been made herein below, it is respectfully submitted that the Restriction Requirement dated March 1, 2006 is improper and should be withdrawn for at least the following reasons.

Initially, the Official Action asserts that Groups I/II are related to Group III as process and apparatus for its practice. This assertion is clearly improper because Group I is directed to a method, Group II is directed to a system, and Group III is directed to a computer readable medium for performing the method of Group I. As such, for instance, the allegation that the process claimed in Group I could somehow be practiced by another and materially different apparatus or by hand than that claimed in Group III is untrue. In fact, the claims in Groups I and III clearly point out that various functions are performed by the plurality of agents and the robotic device and thus cannot be performed by another and materially different apparatus or by hand.

In addition, the Official Action asserts that Group I and Group II are somehow related as combination and subcombination, even though Group I is directed to a method and Group II is directed to an apparatus. Firstly, it is not at all clear as to how apparatus claims could be construed as being a subcombination of method claims. Secondly, the alleged reasoning for

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setting forth this restriction requirement on the basis that "[t]he subcombination has separate utility such as robot to manufacture computer chips" is clearly improper because this allegation fails to address why the features of the claimed robotic device would be used in the manufacture of computer chips. For instance, why would such a robotic device communicate with the claimed one or more agents and how would the claimed sensors be used with such a robotic device?

Should the Examiner maintain this Restriction Requirement, the Examiner is respectfully requested to provide additional reasoning as to why the Examiner believes the Restriction Requirement is valid.

The Restriction Requirement is also clearly improper because the alleged species are not patentably distinct from each other and thus fails to meet the criteria set forth in MPEP 803. More particularly, the Official Action has failed to show that the alleged inventions are independent or distinct as claimed and that there would be a serious burden on the examiner if restriction is not required. In fact, the groupings of the alleged species do not support the allegation that the claimed invention is directed to multiple species.

The Official Action asserts that a species "wherein transmitting one buy bid and a sell offer for cooling, only" is somehow distinct from a species "wherein transmitting more than one buy bid and a sell offer for cooling, only". Initially, it is not at all clear as to how these alleged species could be construed as being distinct and how examination of these alleged species would create a serious burden on the Examiner. Clearly, a search for the first alleged species would entail a search for the second alleged species. This argument is also true for the alleged "one cooling system" vs. "more than one cooling system", the "pricing at least one of a buy bid and a sell offer" vs. "pricing at least more than one of a buy bid and a sell

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offer", "the species wherein transmitting one buy bid and a sell offer for cooling, only" vs. "pricing at least one of a buy bid and a sell offer, only", etc.

The election requirement if Group II is selected is also clearly improper. Again, it is not at all clear as to how a serious burden would exist if the Examiner were to examine both alleged species as they both pertain to cooling resource distribution. Clearly, an examination of either of these alleged species would entail a search of the other alleged species.

In addition, the Official Action asserts that an election of Group II requires a further election of three additional alleged species. This requirement is confusing to say the least because it is unclear as to how an election is to be made on any of the alleged species considering there are two sets of election requirements. More particularly, is the Examiner requesting that an election be made on the species alleged in the first set of Group II species and the second set of Group II species? Or, has the Examiner mistakenly written Group II instead of Group III for the second set of Group II species?

The alleged groupings of claims and the alleged species thus cannot be considered as being "independent" or "distinct" as defined in MPEP 802.01. As stated therein, for inventions to be independent, the claimed invention must be "unconnected in design, operation, and effect." In addition, that section of the MPEP indicates that "[t]wo or more inventions are related (i.e., not independent) if they are disclosed as connected in at least one of design (e.g., structure or method of manufacture), operation (e.g., function or method of use), or effect. Examples of related inventions include combination and part (subcombination) thereof, process and apparatus for its practice, process and product made, etc."

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For at least the foregoing reasons, the Examiner is respectfully requested to withdraw the restriction requirement and to examine all of the claims pending in the present application.

Restriction Requirement

The Official Action asserts that the present application contains claims that are directed to three patentably distinct inventions. As defined in the Official Action, these inventions are:

Group I: Claims 1-24 and 36-42, directed to a method for agent-based operation of a robotic device;

Group II: Claims 25-35, directed to a system for agent-based operation of a robotic device; and

Group III: Claims 43-50, directed to a computer readable storage medium on which is embedded one or more computer programs implementing a method for agent-based operation of a robotic device.

A restriction requirement has been imposed requiring an election of one of the three groups on the alleged basis that the above-identified groups are distinct from each other. In addition, the Official Action alleges that the search required for one of the groups is not required for the other group.

In response to that restriction requirement, Applicants hereby elect, with traverse, Group I, directed to Claims 1-24 and 36-42.

The election is made with traverse, because it is believed that all of the claims of this application can be examined at the same time without serious burden. The search required

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for the non-elected groups would likely be co-extensive with that required for the elected group, because all the groups include embodiments involving agent-based operation of a robotic device. In addition, many of the features claimed in the claims of the non-elected groups are included in the claims of the elected Group 1. For instance, elected non-elected Claim 43 includes all of the features of elected Claim 1, except that Claim 43 is directed to a computer readable medium.

As such, the search required for Claim 1 will, in most likelihood, encompass a search for non-elected Claim 43. It is thus submitted that no serious burden would result if all of the embodiments of this application were examined concurrently. Accordingly, withdrawal of the restriction requirement and examination of all of the claims contained in this application, are respectfully requested.

The Official Action has also required that one of the following six allegedly patentably distinct species be elected. As defined in the Official Action, these species are:

Species I: the species wherein transmitting one buy bid and a sell offer for cooling, only.

Species II: the species wherein transmitting more than one buy bid and a sell offer for cooling, only.

Species III: one cooling system...based one energy cost, only.

Species IV: more than one cooling system...based one energy cost, only.

Species V: pricing at least one of a buy bid and a sell offer, only.

Species VI: pricing at least more than one of a buy bid and a sell offer, only.

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A requirement to elect a single disclosed species of the six alleged species has been imposed on the basis that the above-identified species are allegedly patentably distinct from each other. In addition, the Official Action alleges that no claim is generic.

In response to that election of species requirement, Applicants hereby elect, with traverse, Species VI of the invention. Claims 11-20 and 40-42 are readable on the elected species. In addition, Claims 1-10, 21-24, and 36-39 are considered to be generic to Species I-VI.

Although an election has been made in response to the Official Action, Applicants respectfully traverse the Restriction Requirement for at least the reasons set forth herein above.

In light of the foregoing, withdrawal of the restriction requirement and examination of all of the claims of this application are respectfully requested.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the above-identified application, please contact the undersigned at the telephone number listed below.

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Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

Dated: April 3, 2006

By



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